

§ 70.602

Major Disaster. A flood, fire, hurricane, earthquake, storm, or other catastrophe defined as a “major disaster” under the Disaster Relief Act (42 U.S.C. 5122(2)), which occurs in any part of the United States and which the President has determined causes sufficient damage to warrant “major disaster” assistance under that Act.

Tax. (1) With respect to distilled spirits, “tax” means the internal revenue tax that is paid or determined on spirits.

(2) With respect to wines, “tax” means the internal revenue tax that is paid or determined on the wine.

(3) With respect to beer, “tax” means the internal revenue tax that is paid or determined on the beer.

United States. When used in a geographical sense includes only the States and the District of Columbia.

Wines. All still wines, effervescent wines, and flavored wines, on which internal revenue wine tax has been paid or determined, and if imported, on which duty has been paid.

[T.D. ATF-376, 61 FR 31033, June 19, 1996, as amended by T.D. ATF-450, 66 FR 29030, May 29, 2001]

PAYMENTS

§ 70.602 Circumstances under which payment may be made.

(a) **Major disasters.** The appropriate TTB officer shall allow payment (without interest) of an amount equal to the tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the duty paid, on distilled spirits, wines, and beer previously withdrawn, if the liquors are lost, made unmarketable, or condemned by a duly authorized official as the result of a major disaster (as defined in § 70.601).

(b) **Other causes of loss—(1) Payment.** The appropriate TTB officer shall allow payment (without interest) of an amount equal to the tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the duty paid, on distilled spirits, wines, and beer previously withdrawn, if the liquors are lost, made unmarketable, or condemned by a duly authorized official as a result of:

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(i) Fire, flood, casualty, or other disaster; or

(ii) Breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief.

(2) **Minimum claim.** No claim of less than \$250 will be allowed for losses resulting from any disaster or damage described in paragraph (b)(1) of this section.

(c) **General.** Payment under this section may be made only if:

(1) The disaster or other specified cause of loss occurred in the United States;

(2) At the time of the disaster or other specified cause of loss, the liquors were being held for sale by the claimant;

(3) Refund or credit of the amount claimed, or any part of the amount claimed, has not or will not be claimed for the same liquors under any other law or regulations; and

(4) The claimant was not indemnified by any valid claim of insurance or otherwise for the tax and/or duty on the liquors covered by the claim.

CLAIMS PROCEDURES

§ 70.603 Execution and filing of claim.

(a) **General.** (1) Claims under this subpart must be filed on Form 2635 (5620.8).

(2) The claim shall include all the facts on which the claim is based, and be accompanied by a record of inventory of the liquors lost, made unmarketable, or condemned. (See § 70.604.)

(3) The claim shall contain a statement that no other claim for refund or credit of the amount claimed, or for any part of the amount claimed, has been or will be filed under any other law or regulations.

(b) **Major disasters.** Claims for refund of tax and/or duty on liquors which were lost, became unmarketable, or were condemned as a result of a major disaster must be filed not later than 6 months from the day on which the President determines that a major disaster has occurred.

(c) **Other causes of loss.** (1) Claims for amounts of \$250 or more for refund of tax and/or duty on liquors which were lost, became unmarketable, or were condemned as the result of:

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(i) Fire, flood, casualty, or other disaster; or

(ii) Damage (excluding theft) resulting from vandalism or malicious mischief, must be filed within 6 months after the date on which the disaster or damage occurred.

(2) Claims for amounts less than \$250 will not be allowed.

[T.D. ATF-376, 61 FR 31033, June 19, 1996, as amended by T.D. ATF-450, 66 FR 29030, May 29, 2001]

§ 70.604 Record of inventory to support claims.

(a) *Claims relating to distilled spirits.* The record of inventory of distilled spirits lost, made unmarketable, or condemned, which is required to support claims filed under § 70.603, shall show the following information:

(1) Name and business address of claimant (as shown on claim, Form 2635 (5620.8)).

(2) Address where the spirits were lost, became unmarketable, or were condemned, if different from the business address.

(3) Kind of spirits.

(4) Brand name.

(5) For full cases, show:

(i) Number of cases;

(ii) Serial numbers;

(iii) Bottles per case;

(iv) Size of bottles;

(v) Wine gallons per case;

(vi) Proof; and

(vii) Proof gallons.

(6) For bottles not in cases, show:

(i) Total number;

(ii) Size of bottles;

(iii) Wine gallons;

(iv) Proof; and

(v) Total proof gallons.

(7) Total proof gallons for all items.

(b) *Claims relating to wines.* The record of inventory of wines lost, made unmarketable, or condemned, which is required to support claims filed under § 70.603, shall show the following information:

(1) Name and business address of claimant (as shown on claim, Form 2635 (5620.8)).

(2) Address where the wines were lost, became unmarketable, or were condemned, if different from the business address.

(3) Kind of wine.

(4) Percent of alcohol by volume.

(5) Number of barrels or kegs.

(6) Kind and number of other bulk containers.

(7) Number of full cases and bottles per case.

(8) Size of bottles.

(9) Number of bottles not in cases and wine gallons.

(10) Total wine gallons.

(c) *Claims relating to beer.* The record of inventory of beer lost, made unmarketable, or condemned, which is required to support claims filed under § 70.603, shall show the following information:

(1) Name and business address of claimant (as shown on claim, Form 2635 (5620.8)).

(2) Address where the beer was lost, became unmarketable, or was condemned, if different from the business address.

(3) Number and size of barrels.

(4) *For full cases, show:*

(i) Number of cases;

(ii) Bottles or cans per case; and

(iii) Size (in ounces) of bottles or cans.

(5) Number and size of bottles and cans not in cases.

(6) Quantity in terms of 31-gallon barrels.

(7) Total quantity.

(d) *Special instructions.* (1) Inventories of domestic liquors, imported liquors, and liquors manufactured in the Virgin Islands shall be reported separately.

(2) Liquors manufactured in Puerto Rico may not be included in claims filed under this subpart. Claims for losses of Puerto Rican liquors shall be filed with the Secretary of the Treasury of Puerto Rico under the laws of Puerto Rico.

§ 70.605 Claims relating to imported, domestic, and Virgin Islands liquors.

(a) Claims involving taxes on domestic liquors, imported liquors, and liquors manufactured in the Virgin Islands must show the quantities of each separately in the claim.

(b) A separate claim on Form 2635 (5620.8) must be filed for customs duties.